

§Appl. No. 10/726,531
Reply to Office Action of, October 21, 2004

In the Drawings:

Applicant proposes to amend the drawings to make the person's head and hair more clear and visible as is shown in red on the attached replacement sheet at the end of this Response.

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REMARKS/ARGUMENTS

Single independent claim 1 and dependent claims 2-5 and 8-12 remain in this application for examination, limitations from cancelled claim 6 and 7 having been incorporated into claim 1.

Drawings:

Applicant has submitted herewith a proposed replacement sheet for claim 1 in which the person's head and hair are more distinctly illustrated.

Claim Objections:

Applicant has responded to each of the Examiner's objections by amending the claims in accordance with the Examiner's concerns and suggestions.

Claim Rejections Under 35 U.S.C. §112:

Applicant has removed the term "relatively" from claims 3, 4 and 9.

Claim Rejections Under 35 U.S.C. §102:

Claims 1, 2, 6 and 7 have been rejected under 35 U.S.C. §102(b) as being anticipated by Rinz '513. Applicant respectfully traverses this rejection.

It is respectfully submitted that Rinz does not disclose a base pillow made of compressible foam material as well as a head pillow made of compressible foam material. Rather, Rinz '513 states that the pillow 17 disclosed therein is a "conventional pillow". There is no indication that the conventional pillow is made of foam as is claimed as a limitation in Applicant's claim 1. Moreover, in Applicant's claimed invention the head pillow has a top surface having an extent which is substantially the size of a person's head, whereas in Rinz '513 the structure which would correspond to a head pillow has a lateral extension which is substantially greater than the size of a person's head.

Rinz '513 is directed to a different structure in that Rinz is directed to a pillow case having an

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insert for converting a conventional pillow into an orthopedic pillow, rather than a headrest for elevating a person's head to minimize pressure against a person's hair while the head is resting on the headrest. Clearly, the claimed article is different from the article disclosed by Rinz '513. In Rinz '513 the head pillow is part of the pillow case and is separate from the base pillow rather than being a portion of the base pillow as claimed by Applicant. Rinz's structure is therefore antithetical to Applicant's claimed invention.

In order for a rejection under 35 U.S.C. §102 to be sustainable, the reference used in the rejection must disclose all limitations of the claim. Clearly this is not the case with respect to Rinz '513. Accordingly, the rejection under 35 U.S.C. §102 should be withdrawn.

Claim Rejections Under 35 U.S.C. §103:

Claims 3-5 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Rinz '513 in view of Glaze '19A1. Applicant respectfully traverses this rejection. With respect to claim 3 from which claims 4 and 5 depend, the claimed outer slip has a pocket which receives head pillow, which head pillow is a portion of the base pillow. There is no structure in Glaze '19A1 which corresponds to the pocket and the outer slip for accommodating a head pillow.

Claim 8 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Rinz '513 in view of Glaze '19A1 and further in view of Austin '017. Applicant respectfully traverses this rejection.

While Austin '017 discloses a head rest having what would correspond to Applicant's base pillow and Applicant's head pillow configured rectangularly, Austin does not cure the other deficiencies of Rinz '513 as a reference against Applicant's claims. This is because Austin is directed to a therapeutic pillow rather than to a head rest for elevating a person's head to minimize pressure against the person's hair while the head is resting on the head rest.

Claims 9 and 10 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Rinz '513 and further in view of Lilley, Jr. '415. Applicant respectfully traverses this rejection.

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Applicant recites that both the base pillow and head pillow are made of "single blocks of urethane foam." This is not the case in Lilley, Jr. because in Lilley, Jr. the base pillow is made of a plurality of blocks. Moreover, Lilley, Jr. is directed to a portable seat cushion rather than a head rest which is constructed and arranged for elevating a person's head to minimize pressure against a person's hair while the head is resting on the headrest.

With respect to the rejections under 35 U.S.C. §103(a), Applicant submits herewith a "Declaration" traversing Rejections under 37 C.F.R. §1.132. Applicant is an individual inventor who has sold 24 head rests configured in accordance with the claimed invention. These sales are not the result of an advertising campaign because the Applicant does not have one, rather it is the configuration of the product itself and its successful use for the purpose intended which has resulted in the sales. These sales establish commercial success commensurate with Applicants small business and financial limitations. Applicant's commercial success is evidence in support of Applicants contention that her invention is unobvious.

New claim 11 is directed to the concept shown in Applicant's Figs. 4 and 5, wherein the outer slip 40 is shown overlapping the cover 54 on the bottom of the base pillow 58. The outer slip 40 is removable from the headrest and the cover 54 is detachable from the headrest because it is fastened thereto by VELCRO® connections 84/86.

In that this is a full and complete response to the Office Action of October 21, 2004, this application is now in condition for allowance.

Respectfully submitted,

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Date: February 22, 2005